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EXAMINER

MEINECKE DIAZ, SUSANNA M

ART UNIT

PAPER NUMBER

3623

DATE MAILED: 06/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/514,997

Applicant(s)

SCHULTZE, AXEL

Examiner

Susanna M. Diaz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,7-17,20-34,36-40 and 42-79 is/are pending in the application.
- 4a) Of the above claim(s) 78 and 79 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,7-17,20-34,36-40 and 42-77 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 24, 2005 has been entered.

Claims 1, 25, 31, 39, 45, 61, 67, and 72 have been amended.

Claims 78 and 79 have been added; however are withdrawn for the reasons presented below.

Claims 1, 7-17, 20-34, 36-40, and 42-77 are presented for examination.

2. Newly submitted claims 78 and 79 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Claims 78 and 79 are directed toward the details of an automatic inquiry message, which is not recited in pending claims 1, 7-17, 20-34, 36-40, and 42-77, and therefore are related to claims 1, 7-17, 20-34, 36-40, and 42-77 as subcombinations usable.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 78 and 79 are withdrawn from

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consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1, 7-17, 20-34, 36-40, and 42-77 have been considered but are moot in view of the new ground(s) of rejection, which are necessitated by Applicant's claim amendments.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 7-17, 20-34, 36-40, and 42-77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al. (U.S. Patent No. 6,078,892) in view of Boudrow ("Chamber Referral Program Not for All Real Estate Agents"), and further in view of Cates ("Why You Need a Hit List").

Anderson discloses a computer based method for providing leads to a sales agent from an electronic lead database to enable the sales agent to contact the lead to determine interest in at least one of a product or a service, the method comprising the steps of:

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[Claim 1] receiving by the electronic lead database an electronic lead request from a sales agent (col. 2, lines 42-46, 60-64; col. 3, lines 22-40; col. 7, lines 53-65);

providing a lead from the electronic lead database to the sales agent in response to the lead request (col. 2, lines 42-46, 60-64; col. 3, lines 22-40; col. 7, lines 53-65);

receiving by the electronic lead database a lead selection from the sales agent, the lead selection indicating that the sales agent elects to contact the lead (col. 3, lines 37-40 -- The agent selects records that "he would like to pursue," i.e., leads he intends to contact); and

[Claim 7] wherein the lead request includes a lead selection parameter (col. 2, lines 42-46, 60-64; col. 3, lines 22-40; col. 7, lines 53-65);

[Claim 8] wherein the lead includes at least one of the group consisting of contact information and product information (col. 2, lines 42-46, 60-64; col. 3, lines 22-40; col. 7, lines 53-65);

[Claim 9] wherein the sales agent comprises one of the group consisting of a reseller, salesperson, and service provider (col. 2, lines 42-46, 60-64; col. 3, lines 22-40; col. 7, lines 53-65 -- The agent is offering to provide a product of interest to a lead);

[Claim 10] wherein the lead request comprises at least one of the group consisting of a service request and a product request (col. 2, lines 42-46, 60-64; col. 3, lines 22-40; col. 7, lines 53-65 -- The agent offers the service of providing a product to a lead);

[Claim 11] sending a second confirmation message to the sales agent (col. 3, lines 22-40 -- The downloaded contact information is a notification that the sales agent has been granted access to the requested lead contact information);

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[Claim 14] sending a third confirmation message to an administrator (col. 3, lines 37-40 -- The agent selects records that "he would like to pursue," i.e., leads he intends to contact, thereby informing the database system that the agent confirms this desire to pursue selected leads);

[Claim 15] wherein the step of providing further comprises determining whether the lead request is authorized for the sales agent (col. 2, lines 42-46, 60-64; col. 3, lines 22-40; col. 7, lines 53-65 -- By providing the sales agent with the complete lead contact information, it is implied that the sales agent is authorized to access this information);

[Claim 16] wherein the step of providing further comprises:

receiving, from the sales agent, a lead selection parameter (col. 2, lines 42-46, 60-64; col. 3, lines 22-40; col. 7, lines 53-65);

searching the electronic lead database for the lead selection parameter to generate a search result (col. 2, lines 42-46, 60-64; col. 3, lines 22-40; col. 7, lines 53-65); and

providing the search result to the sales agent (col. 2, lines 42-46, 60-64; col. 3, lines 22-40; col. 7, lines 53-65);

[Claim 17] wherein the lead selection parameter comprises one of geographical location and product (col. 2, lines 42-46, 60-64; col. 3, lines 22-40; col. 7, lines 30, 53-65; col. 9, line 21).

Regarding claims 1, 20, and 21, Anderson discloses the provision of filtered leads to a sales agent; however, Anderson does not expressly teach the step of moving

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the lead from an active set of the electronic lead database to a selected set of the electronic lead database for a predetermined time period, wherein leads in the selected set cannot be provided to a second sales agent. Boudrow makes up for this deficiency with her teaching of the concept of selling exclusive rights to sales leads on a temporal basis. More specifically, Boudrow describes the Realtor Referral Program in which "the rotating service gives agencies 30-day exclusive leads for \$100 per quarter" (¶ 6). The practice of providing exclusive leads entices agents to pay higher premiums for leads that come with less competition as a result of their exclusive nature while the temporal nature of the Realtor Referral Program's exclusive leads generates more income from leads that may be resold periodically (e.g., every 30 days). Anderson, too, is directed toward a lead generation system and it is old and well-known in the art to automate well-known manual processes in order to reap the benefits of quicker and less erroneous data processing; therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to implement with Anderson the step of moving the lead from an active set of the lead database to a selected set of the lead database for a predetermined time period, wherein leads in the selected set cannot be provided to a second sales agent (the concept of which is taught by Boudrow) in order to provide exclusive leads that entice agents to pay higher premiums for leads that come with less competition as a result of their exclusive nature while generating more income for Anderson's lead provider from leads that may be resold periodically. Furthermore, by reselling a lead, it is understood that the lead is replaced into the active set of the lead database to make the lead

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available for a second lead request after the predetermined time period has expired (claim 20) and the lead is offered for sale to another agent in the hopes of the second lead request being issued by a second sales agent (claim 21).

Regarding claim 1, neither Anderson nor Boudrow expressly teaches “independently from the sales agent, sending an automatic first confirmation message to the lead prior to the sales agent contacting the lead, the first confirmation message for introducing the lead to the sales agent.” However, Cates makes up for this deficiency in his teaching of the concept of a person having a friend or colleague introduce him/her to a prospect (or lead) prior to directly contacting the prospect:

...These people don't want to meet you through a cold call, but they will meet with you if a friend or colleague introduces you.  
Recognizing that prospects prefer to meet you through a referral system helps reinforce your referral mindset. (¶¶ 10-11)

Clearly, Cates implies that a referral system (which is effectively a type of lead management system/arrangement, as disclosed by Anderson and Boudrow) benefits from introductions by a trusted third party (i.e., a “source” of leads) of a person to a prospect (i.e., lead). The prospect (or lead) is more likely to be receptive to an approach from a stranger when first introduced to the stranger by a friend or colleague, thereby increasing the likelihood of success when pursuing a lead (¶¶ 4, 10-11). Both the Anderson-Boudrow combination as well as Cates are directed toward making improvements in lead management (or referral) systems/arrangements and Cates presents a solution to cold calling that is pertinent to the goal at hand in the Anderson-



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Boudrow combination (i.e., effectively managing and pursuing leads); therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to further modify the Anderson-Boudrow combination to incorporate the functionality of independently from the sales agent, sending a first confirmation message to the lead prior to the sales agent contacting the lead, the first confirmation message for introducing the lead to the sales agent in order to prevent cold calling by relying on a trusted referral network in which leads feel more comfortable and are more receptive to approaches from strangers, thereby increasing the likelihood of success for a person when pursuing a lead (as suggested by Cates in ¶¶ 1, 5, and 10-11). Furthermore, while Cates does not expressly teach that the first confirmation message is sent automatically, Anderson lays the groundwork for automatically processing lead generation messages and it is old and well-known in the art to automate well-known manual processes in order to reap the benefits of quicker and less erroneous data processing (both discussed above). Therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify the Anderson-Boudrow-Cates combination to send the first confirmation message automatically in order to facilitate the communication of such messages more quickly and with less propensity toward erroneous data processing.

As per claims 12 and 13, neither Anderson, Boudrow, nor Cates expressly teaches that the first and second confirmation messages are sent via a wide area network (claim 12), wherein said wide area network is an Internet (claim 13). Anderson's agents may receive their complete contact information, i.e., a second

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confirmation message, via a wide area network (col. 12, lines 5-14), yet Anderson does not expressly teach that the first confirmation message (e.g., communication from the agent to the lead) is sent via a wide area network, such as the Internet. However, Anderson discloses that wide area networks are old and well-known (col. 12, line 10). Furthermore, Official Notice is taken that the Internet is an old and well-known type of wide area network. The Internet provides the benefit of fast and efficient global communications. Therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to facilitate that the first and second confirmation messages (of the Anderson-Boudrow-Cates combination) be sent via a wide area network (claim 12), wherein the wide area network is an Internet (claim 13) in order to reap the benefits of fast and efficient global communications when providing lead information to an agent and establishing communications between the agent and a lead.

Regarding claims 22-24, Anderson does not expressly teach that the sales agent provides a result for the lead; however, Anderson does disclose the use of "historical data collected through past marketing campaigns" to optimize the lead recommendations to a sales agent (col. 7, lines 9-23). The results of leads generated for a sales agent exemplify Anderson's "historical data collected through past marketing campaigns." What is lacking in Anderson is the explicit teaching that Anderson's "historical data collected through past marketing campaigns" is gathered directly from the sales agents seeking leads. However, Official Notice is taken that it is old and well-known in the art to continuously optimize a model (e.g., targeting market strategies)

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based on the confirmation of the success or failure of the model's prediction capabilities. This practice helps to ensure that the model's efficacy evolves with changing factors over time. Results from the lead generation are precisely what is needed to contribute to Anderson's "historical data collected through past marketing campaigns" if the associated model of generating leads is to be continually optimized; therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to perform the steps of receiving, from the sales agent, a message comprising a result for the lead, storing the result in the lead database (claim 22), and parsing the message to identify the result (which is necessarily involved in the electronic communications already taught by Anderson) (claim 23) in order to help ensure that the lead generation model's efficacy evolves with changing factors over time. Furthermore, Official Notice is taken that it is old and well-known in the art to provide sales agents with tips regarding how to select and target the best leads in order to enable the sales agents to reap greater profits as a result of their marketing strategies. Therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to send at least one of the group consisting of a result confirmation to the sales agent and a result notification to the lead (claim 24) in order to provide sales agents with tips regarding how to select and target the best leads in order to enable the sales agent to reap greater profits as a result of their marketing strategies.

Anderson discloses a method for requesting a lead by a sales agent, the method comprising the steps of:

[Claim 25] sending a lead request to an electronic lead database (col. 2, lines 42-46, 60-64; col. 3, lines 22-40; col. 7, lines 53-65);

receiving a lead from the electronic lead database (col. 2, lines 42-46, 60-64; col. 3, lines 22-40; col. 7, lines 53-65); and

sending a lead selection to the electronic lead database, the lead selection indicating that the sales agent has selected the lead, the sales agent for contacting the lead to determine interest in at least one of a product and a service (col. 2, lines 42-46, 60-64; col. 3, lines 22-40; col. 7, lines 53-65);

[Claim 26] wherein the lead request comprises a service request (col. 2, lines 42-46, 60-64; col. 3, lines 22-40; col. 7, lines 53-65 -- The agent offers the service of providing a product to a lead);

[Claim 27] sending a lead selection parameter to the electronic lead database for querying a subset of leads (col. 2, lines 42-46, 60-64; col. 3, lines 22-40; col. 7, lines 53-65).

Regarding claim 25, Anderson discloses the provision of filtered leads to a sales agent; however, Anderson does not expressly teach the step of moving the lead from an active set of the electronic lead database to a selected set of the electronic lead database for a predetermined time period, wherein leads in the selected set cannot be provided to a second sales agent. Boudrow makes up for this deficiency with her

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teaching of the concept of selling exclusive rights to sales leads on a temporal basis. More specifically, Boudrow describes the Realtor Referral Program in which “the rotating service gives agencies 30-day exclusive leads for \$100 per quarter” (& 6). The practice of providing exclusive leads entices agents to pay higher premiums for leads that come with less competition as a result of their exclusive nature while the temporal nature of the Realtor Referral Program’s exclusive leads generates more income from leads that may be resold periodically (e.g., every 30 days). Anderson, too, is directed toward a lead generation system and it is old and well-known in the art to automate well-known manual processes in order to reap the benefits of quicker and less erroneous data processing; therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant’s invention to implement with Anderson the step of moving the lead from an active set of the lead database to a selected set of the lead database for a predetermined time period, wherein leads in the selected set cannot be provided to a second sales agent (the concept of which is taught by Boudrow) in order to provide exclusive leads that entice agents to pay higher premiums for leads that come with less competition as a result of their exclusive nature while generating more income for Anderson’s lead provider from leads that may be resold periodically.

Regarding claim 25, neither Anderson nor Boudrow expressly teaches “independently from the sales agent, sending an automatic first confirmation message to the lead prior to the sales agent contacting the lead, the first confirmation message for introducing the lead to the sales agent.” However, Cates makes up for this

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deficiency in his teaching of the concept of a person having a friend or colleague introduce him/her to a prospect (or lead) prior to directly contacting the prospect:

...These people don't want to meet you through a cold call, but they will meet with you if a friend or colleague introduces you.

Recognizing that prospects prefer to meet you through a referral system helps reinforce your referral mindset. (¶¶ 10-11)

Clearly, Cates implies that a referral system (which is effectively a type of lead management system/arrangement, as disclosed by Anderson and Boudrow) benefits from introductions by a trusted third party (i.e., a "source" of leads) of a person to a prospect (i.e., lead). The prospect (or lead) is more likely to be receptive to an approach from a stranger when first introduced to the stranger by a friend or colleague, thereby increasing the likelihood of success when pursuing a lead (¶¶ 4, 10-11). Both the Anderson-Boudrow combination as well as Cates are directed toward making improvements in lead management (or referral) systems/arrangements and Cates presents a solution to cold calling that is pertinent to the goal at hand in the Anderson-Boudrow combination (i.e., effectively managing and pursuing leads); therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to further modify the Anderson-Boudrow combination to incorporate the functionality of independently from the sales agent, sending a first confirmation message to the lead prior to the sales agent contacting the lead, the first confirmation message for introducing the lead to the sales agent in order to prevent cold calling by relying on a trusted referral network in which leads feel more comfortable and

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are more receptive to approaches from strangers, thereby increasing the likelihood of success for a person when pursuing a lead (as suggested by Cates in ¶¶ 1, 5, and 10-11). Furthermore, while Cates does not expressly teach that the first confirmation message is sent automatically, Anderson lays the groundwork for automatically processing lead generation messages and it is old and well-known in the art to automate well-known manual processes in order to reap the benefits of quicker and less erroneous data processing (both discussed above). Therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify the Anderson-Boudrow-Cates combination to send the first confirmation message automatically in order to facilitate the communication of such messages more quickly and with less propensity toward erroneous data processing.

Regarding claims 28-30, Anderson does not expressly teach that the sales agent provides a result for the lead; however, Anderson does disclose the use of "historical data collected through past marketing campaigns" to optimize the lead recommendations to a sales agent (col. 7, lines 9-23). The results of leads generated for a sales agent exemplify Anderson's "historical data collected through past marketing campaigns." What is lacking in Anderson is the explicit teaching that Anderson's "historical data collected through past marketing campaigns" is gathered directly from the sales agents seeking leads. However, Official Notice is taken that it is old and well-known in the art to continuously optimize a model (e.g., targeting market strategies) based on the confirmation of the success or failure of the model's prediction capabilities. This practice helps to ensure that the model's efficacy evolves with changing factors

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over time. Results from the lead generation are precisely what is needed to contribute to Anderson's "historical data collected through past marketing campaigns" if the associated model of generating leads is to be continually optimized; therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to perform the steps of processing the selected lead to determine a result for the selected lead (claim 28), wherein the result comprises one of the group consisting of a sale, a no interest response, an evaluation, and a project (claim 29), and wherein the step of processing the selected lead further comprises identifying the result for the selected lead and sending the result to the lead database for storage of the result (claim 30) in order to help ensure that the lead generation model's efficacy evolves with changing factors over time.

[Claims 31-34, 36-40, 42-77]      Claims 31-34, 36-40, and 42-77 recite limitations already addressed by the rejection of claims 1, 7-17, and 20-30 above; therefore, the same rejection applies.

### ***Conclusion***

6.      The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Verba et al. (U.S. Patent No. 6,236,977) -- Discloses a computer-implemented marketing system.



Jones ("Future Legends: Kimberly J. McKown, CLU, ChFC") -- Discusses the importance of having a third party introduce a sales agent to referred leads.

Lamey ("The Sushi Connection") -- Discusses how cold calling is not traditionally accepted in Japanese society; introductions through a third party are preferred.

"Vignette Announces Developer and Affiliate Programs to Accelerate Deployment of Web Businesses With Storyserver 3" -- Discusses the concept of awarding an affiliate every time an introduction leads to new business.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna M. Diaz whose telephone number is (571) 272-6733. The examiner can normally be reached on Monday-Friday, 10 am - 6 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Susanna M. Diaz  
Primary Examiner  
Art Unit 3623

June 9, 2005